IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 272 of 2002

Between:

Dr. P. Johnson, S/o. P. J. Prabakar Rao,
R/o. H.No. T.Q. --17, A.P.S.W.R.J.C. , Kurugunta,
Anantapur District.

..... PETITIONER

AND

Sri Krishnadevaraya Univeristy, Rep. by its Registrar,
Anantapur.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ Order or direction particularly one in the nature of Writ of Mandamus declaring that the action of the respondent in not conducting the interviews for Non-Teaching Posts under the Caption other Posts in the Notification No. SKU/EB/(97) Dated 20.03.1997 as illegal, arbitrary and violative of Articles 14,15, 21 of the constitution of India and consequently direct the respondent to conduct the interviews for the post of Asst. Director, Dept, of Physical Education (Post Reserved for S.C. category) Non--Teaching Staff and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.GIRISH KUMAR

Counsel for the Respondents: MR.M.RAMALINGESWARA REDDY

The Court made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 272 of 2002

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O R D E R:

The action of the respondent in not conducting the interviews for non-teaching posts under the caption 'other posts' in the Notification No.SKU/EE1/97 dated 20.3.1997 is challenged in this writ petition as illegal and arbitrary.

The brief facts that are necessary for the disposal of this case are as follows:

The petitioner is working as Guest Lecturer in the Department of Physical Education in the respondent-University since 1991. The respondent-University issued notification No.SKU/EE1/97 on 20.3.1997 calling for applications for the teaching and non-teaching posts. He has applied for the post of Assistant Director, Department of Physical Education of non-teaching staff category. Some of the persons filed W.P. 9175 of 1997 and batch questioning the selection regarding certain posts and obtained stay. In view of the same, selections were not made for non-teaching posts. Thereafter the said batch of writ petitions were dismissed by this court and the respondent-University started the selection process for non-teaching posts. He has received call letter on 8.10.1998 for the above post to appear for interview on 29.10.1998 and again he received telegram on 27.10.1998 regarding the postponement of the interview. The interviews were not conducted due to the stay granted in WPMP 35858 of 1998 in W.P. No. 29321 of 198 on 23.10.1998. The petitioner further states that he is having the experience in the Department of Physical Education as a guest Lecturer since long time and if the respondent-University will not conduct interviews, he

will become age barred for the Governmental service posts. Hence the present writ petition.

The respondent filed counter affidavit stating that the respondent has notified to fill up some of the vacancies of teaching and non-teaching posts on 20.3.1997 and started selection process. While so, W.P. 29321 of 1998 was filed by SKU SC/ST Non-Teaching Welfare Association challenging the roster points and this court gave interim direction that the selection process shall go as per the schedules, but the final selection list shall not be announced until further orders. The said order was modified on 12.7.2000 to the effect that if any appointments are made pursuant the notification, they will be subject to the result of the writ petition. It is further stated that to avoid legal complications, the respondent-University has decided not to take up the appointments of the remaining vacancies. The respondent-University has addressed letter to the Government seeking certain clarifications and the Government vide letter No.33251 UE-1-2-2002-2 dated 29.2.2002 has informed that a fresh notification be issued for filling up SCs & STs vacancies by following rules issued in G.O.Ms.No.47 Social Welfare (CV) Department dated 31.5.2002. The Government has clarified as above for filling up of SCs & STs only through fresh notification, but there are some other categories like BCs, Ocs notified in the year 1997 notification. The University addressed a letter to the Government about the other categories viz., BCs and Ocs., and hence the writ petition may be dismissed.

Additional counter is filed by the respondent-University stating that the petitioner has no locus standi to file the writ petition as he has not even attended the interview. G.O.Ms. No.65 (GAD) dated 15.2.1997 was issued fixing the reservation in favour of woman candidates. Adopting the said G.O., and after permission from the Government, the University had issued fresh notification following the existing Rule of reservation in the month of May 2005 to fill up the post of Asst. Director of Physical Education. According to roaster, the said posts have gone in favour of O.C. (women) and S.C. (women). If

any recruitment is undertaken as per 1997 notification by ignoring the present system of reservation, it amounts to violation of Rule of law and leads to further litigation. The petitioner is working as Junior Lecturer and thus no prejudice is caused and he has no right to insist upon 1997 notification and therefore the writ petition may be dismissed.

It is contended by the learned counsel for the petitioner that in pursuance of the notification in respect of non-teaching posts, interviews were conducted and after passing in the written test the petitioner was called for interview on 29.10.1998 but the interview was postponed due to stay granted by this court. In respect of some other non-teaching posts, some persons were given appointment. Therefore, the action of the respondent-University in not conducting interviews even after the stay is vacated is discriminatory. For the laches committed by the respondent-University, the petitioner cannot be made to suffer and if the interview is not conducted the petitioner would be age-barred for the Government services and hence he prays to allow the writ petition.

On the other hand, learned standing counsel for the respondent-University contended that because of unavoidable circumstances the interviews were not conducted though the notification was issued in the year 1997 and thereafter categorization of S.C. community came into effect and in view of G.O.Ms.No.65 dated 15.2.1997 fixing the reservation for women, the respondent-University sought for permission from the Government. In view of these hurdles, the process of selection for non-teaching posts advertised in pursuance of the notification dated 20.3.1997 was not finalized and a fresh notification has been issued and that no right of the petitioner has been infringed. Hence, he prays to dismiss the writ petition.

The respondent-University issued a notification on 20.3.1997 calling for applications for teaching and non-teaching posts. The petitioner is one of the persons who applied for the post of

Assistant Director in the Department of Physical Education. While so, some persons filed W.P.9175 of 1997 and batch questioning the selection regarding certain posts and obtained stay orders from this court for appointment of teaching posts only. In view of the said stay for teaching posts, the selections were not made for non-teaching posts also. The said batch of writ petitions were dismissed by this court on 24.7.1998. Thereafter the respondent-University started the selection process for non-teaching posts and conducted written test. Basing on the performance of the petitioner in the written test, he was given a call letter directing him to appear for interview on 29.10.1998, but on 27.10.1998 he was informed that the interview was postponed and the revised date will be intimated to him later. The interviews were not conducted due to the stay granted by this court in WPMP No. 35858 of 1998 in W.P. 29321 of 1998 on 23.10.1998. The said order was modified on 12.7.2000 to the effect that if any appointment is made pursuant to the notification, the same will be subject to the result of the writ petition. In spite of the said order, the respondent-University did not conduct any interview, but the respondent has given posting to the persons who are appointed as Statistical Assistants and Pharmacists. Subsequently, W.P. 29321 of 1998 was withdrawn on 13.12.2001. Thereafter, the respondent-University did not take any action for conducting interviews. The reason given by the respondent for not proceeding further is that the categorization of S.C. community has come into force as per G.O.Ms.No.47 dated 1.5.2000 and as per G.O.Ms. No.65 dated 15.2.1997, the posts were reserved for women according to the roaster.

There cannot be any dispute that the respondent has to follow the rule of reservation as per Rule 22 of the A.P. State and Subordinate Service Rules. It is specifically stated by the respondent-University that in the matter of appointments for non-teaching posts, the respondent-University has been following the Government rules. Though the non-teaching posts were notified in the year 1997, interim stay was granted in W.P.29321 of 1998 on 3.11.1998. The said order

was modified on 12.7.2000. In view of the modification order passed by this court though there is no hurdle for proceeding further, but the respondent-University has not taken any decision awaiting the final orders of this court in the main writ petition to avoid further legal complications. Ultimately the writ petition was dismissed as withdrawn on 13.12.2001. In the meanwhile, the Government has issued G.O. with regard to categorization of S.C. community. Since some vacancies belonging to Schedule Casts have been notified in the year 1997, the respondent-University sought clarification from the Government. The Government in its proceedings dated 29.2.2002 informed the respondent to go for a fresh notification duly following the categorization in G.O.Ms.No. 47 dated 31.5.2000. In respect of other categories also, the respondent-University addressed a letter. So also, the respondent has sought for clarification from the Government with regard to the rule of reservation for the women as notified in G.O.Ms.No.65 dated 15.2.1997. Then the Government accorded permission to fill up the posts by issuing a fresh notification. Under these circumstances, the action of the respondent-University cannot be said to be illegal or arbitrary. As a matter of fact, no prejudice has been caused to the petitioner in not proceeding further by the respondent-University inasmuch as he is working as Junior Lecturer, Physical Education in Government Junior College, Ananthapur for the last four years.

For the reasons as stated above, the writ petition is devoid of merit and it is accordingly dismissed.

K.C. Bhanu, J.

Date: --06—2005.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

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Anantapur.

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